

7-1007

FILED
HARRISBURG, PA 1/23/02

JAN 22 2002

MARY E. D'ANDREA, CLERK
Per Deputy Clerk

**In the United States District Court for the
Middle District of Pennsylvania**

GREENE/GUILFORD ENVIRONMENTAL
ASSOCIATION, a non-profit corporation incorporated
under the laws of the Commonwealth of Pennsylvania,
CITIZENS FOR PLANNED COMMUNITY GROWTH,
an unincorporated association organized under the laws of
the Commonwealth of Pennsylvania, PAUL B. AMBROSE,
JOHN G. ENDERS, CHARLES F. RAHAUSER,
BETSY RAHAUSER, DOUGLAS A. WARNOCK, U.X
VAGNERINI, THOMAS W. BUNDY, STEPHEN P.
BUCHER, ROGER J. ROBERTSON, JAMES A.
STRITE, JR., DAVID A. GUTHRIE

v.

KEN WYKLE, Administrator, Federal Highway
Administration, ROBERT GATZ, Federal
Highway Administration

and

BRADLEY L. MALLORY, Secretary for
The Department of Transportation, Commonwealth
of Pennsylvania

Defendant-Intervenor

Civ. No. 1:CV-01-0910

(Judge Rambo)

ATTACHMENTS
TO PLAINTIFFS' REPLY

COMMONWEALTH OF PENNSYLVANIA
AGRICULTURAL LANDS CONDEMNATION

APPROVAL BOARD

* * * * *

IN RE: APPLICATION OF THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT
OF TRANSPORTATION TO THE
AGRICULTURAL LANDS
CONDEMNATION APPROVAL
BOARD (ALCAB) FOR STATE
ROUTE 0081, SECTION 001,
EXIT 7 PROJECT, FRANKLIN
COUNTY

COPY

BEFORE: Edward S. Finkelstein,
Hearing Examiner

HEARING: May 11, 2001
9:00 a.m.

Shippensburg University
Memorial Auditorium
Shippensburg, PA

Reporter: Bernadette M. Black

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Attachment One

1 founded. I'm not going to go
2 too far into this. We'll give
3 Mr. Linzey some leeway on this
4 issue. Do we have a distance
5 yet?

6 ATTORNEY CLEMENTS:

7 We have the team of
8 engineers working on it.

9 HEARING EXAMINER:

10 Do you want that in
11 miles or ---?

12 ATTORNEY CLEMENTS:

13 We believe that is
14 approximately 4,000 feet, a
15 little less than a mile.

16 HEARING EXAMINER:

17 So PennDOT stipulated
18 it's within a mile of the
19 project?

20 A. Right.

21 ATTORNEY LINZEY:

22 We'll get to the heart
23 of these matters.

24 BY ATTORNEY LINZEY:

25 Q. And why was not the Gass House

1 considered in your cultural resources
2 study?

3 A. I'm not ---.

4 ATTORNEY FINUCANE:

5 I'll renew the previous
6 objection.

7 HEARING EXAMINER:

8 Noted, overruled.

9 A. I'm not certain that I can
10 identify which cultural resource
11 study you were referring to. I mean,
12 there were numerous studies over the
13 course of many years, as I previously
14 testified. What we were looking at
15 was, as I explained yesterday, in the
16 areas of the potential interchanges,
17 what were the historic resources.
18 What in the immediate area of the
19 proposed interchanges. So the Gass
20 House, it is what it is. It was
21 recognized as a resource in the
22 Greater Chambersburg area, and that
23 is why it is shown on this map.

24 BY ATTORNEY LINZEY:

25 Q. So you testified incorrectly

As part of final design, the engineering firm may be required to perform any or all of the following duties: attend field views and prepare minutes; form necessary field surveys; plot topography and cross sections; prepare submissions for field views and safety review meeting; prepare pertinent submissions and materials necessary for the Department to prepare the application to PUC for the PUC field conference; attend and supply required information for PUC meetings and hearings during project design; develop erosion control details and narrative; develop right-of-way plans; prepare type, size, and location report; prepare bridge drawings, traffic control plans and narrative; procure core borings; provide the soil and foundation engineering report; investigate utility and property involvement; prepare and disseminate right-of-entry letters; prepare the necessary number of prints and information required for a value engineering review, make the necessary investigations and adjustments to the design as a result of the value engineering review comments; make all necessary contact with railroad officials for railroad-related cost estimates, permits, insurance, approvals and other required information; collect signal timing and accident data; perform traffic counts and speed delay studies; prepare plans for signal design and implementation of signal interconnections; evaluate alternatives using benefit/cost analysis; document study activities and findings; and prepare construction plans, specifications and estimates.

Franklin County
Reference No. 08430AG0912

The Department of Transportation will retain an engineering firm to conduct a Design Location and Environmental Study for S.R. 8016, Section 001, the construction of an interchange on Interstate Route 81. The objective of the studies is the development of a recommended location that will relieve the present traffic congestion at Exit 6 and on U. S. 30. The estimated cost of construction is \$4 million.

The Design Location and Environmental Study will consist of the development and consideration of alternate interchange locations between project termini and the recommendation of a preferred site which best serves the project need.

The required services will include the inventory and mapping of existing and proposed land use patterns, minority groups, historic and archaeologic data, biological data, air and water quality data, floodplain boundaries, public water supply sources, major utility facilities, wetlands, vegetation, wildlife, endangered species, prime farmlands, soil types and geology. Services will also include the performance of origin and destination studies, traffic counts, the analysis of accidents and fuel consumption costs of the existing Interstate 81 interchange and affected roads and the protection of traffic, fuel savings and accident reduction resulting from the various proposed locations. Bridges and intersections which minimize conflicts as required will be located for each alignment. Construction cost estimates will be conducted. A traffic and transportation report will be prepared. A point of access justification will be developed. Aerial mapping will be provided by the Department.

Other required services will include stream surveys including baseline biological conditions; the evaluation of habitat distribution and recommend mitigation measures; identify and map solid waste facilities; plot all utilities and property lines and determine major conflicts; conduct drainage design; classify and field survey wetland boundaries; determine impacts and propose

mitigation measures; assess soil erosion impacts and propose mitigation measures; propose and conduct a hydrogeological program and prepare a written report; conduct traffic signal warrant and capacity analysis; monitor noise and project future conditions and propose mitigation measures; conduct microscale air quality modeling; conduct historic and archaeologic field surveys and assess impacts; assess land use, socioeconomic, farmland, vegetation, wildlife and endangered species impacts; refine lines and grades to minimize impacts; prepare Phase I and Phase II Archaeological Report, 4(f) Report, Cultural Resource Survey Report, Effect Report as required; prepare preliminary bridge, signing, lighting, maintenance and protection of traffic, design location study plans and traffic signal layouts as required; conduct construction cost estimates and assess construction impacts; prepare drawings and participate in value engineering for the project; prepare Draft and Final Environmental Impact Statement Report and Composite Technical Basis Reports; prepare waterway and type, size and location submissions; and conduct Design Location Field View (Step 9). The selected firm will be required to formulate and participate in a public involvement program; summarize and analyze feedback; and coordinate the development of the study with various agencies and special interest groups.

Firms expressing interest in this project must agree ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Surface Transportation Uniform Relocation Assistance Act of 1987 and certified by the Department of Transportation shall have a maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firm owned and controlled by women (WBEs) be included, a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation in this Agreement shall be 15% of the total contract price. Responding firms may make best effort to meet the DBE goal using DBE's (as they were defined prior to the Act), WBE's or combination thereof. Proposed DBE firms must be certified at the time of submission of the letter of interest. If the selected firm fails to meet the goal established, it shall be required to demonstrate its good faith efforts to attain the goal. Failure to meet the goal and to demonstrate good faith efforts may result in being barred from Department contracts in the future.

GENERAL REQUIREMENTS AND INFORMATION

Firms interested in performing any of the above services are invited to submit letters of interest to: Fred W. Bowser, P.E., Consultant Selection Committee, Room 1118, Transportation and Safety Building, Harrisburg, Pa. 17120.

Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms and other engineering firms who have not previously performed work for the Department of Transportation.

Each letter of interest must include in the heading, the firm's Federal Identification Number and the Project Reference Number indicated in the advertisement. A Standard Form 254, "Architect-Engineer and Related Services Questionnaire", not more than 1 year old as of the date of this advertisement, must be submitted for the firm, each party to a joint venture, and for each subconsultant the firm or joint venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company. Standard Form 255,

OCT 23, 1987
RPT:DS12CON

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STATE TRANSPORTATION COMMISSION
1986 - 1998 TWELVE YEAR HIGHWAY AND BRIDGE PROGRAM
CURRENT REVENUE PROGRAM ADOPTED JULY 16, 1987 - REVISED OCTOBER 8, 1987
ENHANCED REVENUE PROGRAM ADOPTED AUGUST 26, 1987 SUBJECT TO FUNDING BEING MADE AVAILABLE. REVISED OCTOBER 8, 1987

HWY KEY	T.R. SPC	PROJECT NAME GEOGRAPHIC LIMIT LOCATION	TYPE IMPROVEMENT S.R.	MILE SYS FUND	DESIGN R/W CONSTR TOTAL	PROGRAM CURRENT REVENUE	PERIODS ENHANCED REVENUE
PMS NBR	S.R.						
L.R.							
DISTRICT 08							
FRANKLIN							
082886905 I 81		TOURIST INFO CENTER	REST AREA	.0	334		
TSMI I-81 NORTHBOUND		NEW FACILITY		STA	100		
					1,620	1ST 4 YRS	1ST 4 YRS
					2,054		
FRANKLIN							
082885600 US 11		CHAMBERSBURG ECONS	SIGNAL IMPROVEMENT	4.6	72		
ECON RT11 CORR.-RT.35 CORR.				FAP	5		
0835201N 0011		CHAMBERSBURG BORO		TAP	1,100	1ST 4 YRS	1ST 4 YRS
35					1,177		
FRANKLIN							
082885207 US 30		LOUDON ST BRIDGE	BRIDGE REPLACEMENT	.0	90		
BRPL OVER CONOCOHEAGUE CREEK		DETOUR = 3MI.		FAP	55		
0030 CHAMBERSBURG BORO		29.5		FCB	600	1ST 4 YRS	1ST 4 YRS
28094					745		
FRANKLIN							
082887001 I 81		I 81 EXIT 7	INTERCHANGE	.2	500		
HCON NB & SB EXIT RAMPS		NEW INTERCHANGE		FAI			
0081 NORTH OF CHAMBERSBURG				SXF	4,500	1ST 4 YRS	1ST 4 YRS
799					5,000		
FRANKLIN							
082882501 I 81		INTERSTATE 81	RESURFACE	2.9	181		
IRST MARYLAND STATE LINE - US11		RAISE 4 OVERHEAD BRIDGES		I4R	32		
083M5402 0081		ANTRIM TOWNSHIP			4,362	1ST 4 YRS	1ST 4 YRS
799					4,575		
FRANKLIN							
082884201 I 81		INTERSTATE 81	BRIDGE REHABILITATION	.1	25		
IRST I-81 & US 30		TWIN BRIDGES		FAI	3		
083M5401 0081		EAST OF CHAMBERSBURG		I4R	396	1ST 4 YRS	1ST 4 YRS
799					424		

JUL 19, 1989
RPT:TYPPRINT

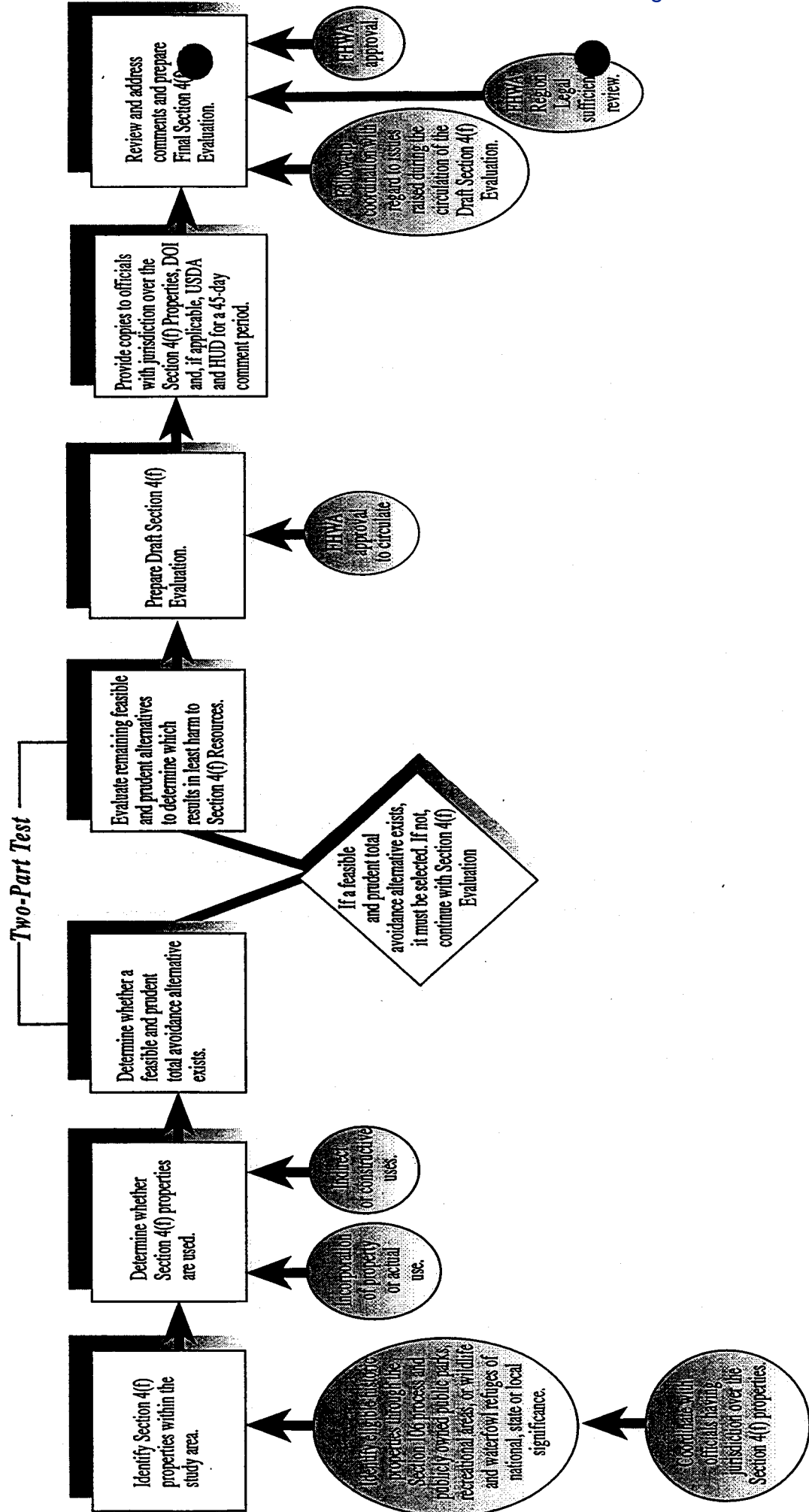
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COMMONWEALTH OF PENNSYLVANIA
ADOPTED

1988 - 2000 TWELVE YEAR HIGHWAY & BRIDGE PROGRAM

HWY KEY	T.R. SPC S.R. L.R.	PROJECT NAME GEOGRAPHIC LIMIT LOCATION	TYPE IMPROVEMENT	MILE SYS FUND	DESIGN R/M CONSTR TOTAL	PROGRAM PERIOD
DISTRICT 08 FRANKLIN						
FIRST FOUR YEARS						
FRANKLIN						
082886201	PA 75	TUSCARORA CR. BRANCH BRPL OVER TUSCARORA CRK. BRANCH	BRIDGE REPLACEMENT	.0 FAP STA	60 11 362 433	FIRST FOUR YEARS
083C013	0075	FAHNET TOWNSHIP				
FRANKLIN						
082884201	I- 81	I-81 / US 30 BRIDGES	BRIDGE REHABILITATION	.1 FAI I4R	25 3 780 808	FIRST FOUR YEARS
083M5401	0081	EAST OF CHAMBERSBURG				
FRANKLIN						
082887001	I- 81	I-81 EXIT 7	INTERCHANGE	.2 FAI SXF	500 200 4,300 5,000	FIRST FOUR YEARS
083C012	0081	CHAMBERSBURG AREA NEW INTERCHANGE				
FRANKLIN						
082887501	I- 81	I-81 WEIGH STATION	WEIGH STATION	.0 FAI I4R	30 175 205	FIRST FOUR YEARS
083S001T	0081	SOUTHBOUND ROADSIDE REST GUILFORD TWP				
FRANKLIN						
082887502	I- 81	I-81 WEIGH STATION	WEIGH STATION	.0 FAI I4R	50 210 260	FIRST FOUR YEARS
083S002T	0081	NORTHBOUND ROADSIDE REST ANTRIM TWP				
FRANKLIN						
082886905	I- 81	TOURIST INFO CENTER	REST AREA	.0 FAI STA	334 100 1,620 2,054	FIRST FOUR YEARS
083M5401	0081	I-81 NORTHBOUND ATRIM TWP				

Overview of the Section 4(f) Process



Note: This flowchart was developed for projects requiring individual Section 4(f) Evaluations; Programmatic Section 4(f)s do not require the 45-day circulation and comment period.

true no matter how small the amount of property incorporated is; no matter what type of transportation project is being proposed; no matter what level of NEPA documentation is required (EA, CEE, or EIS); regardless of whether the property is from an historic site, archeological site that qualifies for preservation in place, public park, public recreation area, or wildlife and waterfowl refuge; and regardless of whether the proposed project qualifies as a Programmatic Section 4(f). (See *Section VIII* for more details regarding Programmatic Section 4(f) Evaluations.)

The second type of actual use, the **temporary** occupancy of Section 4(f) property, such as construction easements, will constitute a "use" unless **all** of the following conditions are met:

- The duration of the use is temporary (i.e., less than the construction period) and there is no change in the ownership of the land;
- The scope of the work is minor, i.e. both the nature and the magnitude of the changes to the Section 4(f) resource are minimal;
- There are no permanent, adverse physical impacts anticipated and no interference with the activities or purposes of the resource on either a temporary or permanent basis;
- The land being used is fully restored to a condition equal to or better than that which existed prior to the project;
- There is a written agreement with the appropriate Federal, State, or local official(s) having jurisdiction over the resource regarding the conditions listed above. (For historic and archaeological sites, written agreement would come from the SHPO.)

If all of these conditions are satisfied, there is no actual use of the Section 4(f) property. If one or more of the conditions is not met, there is an actual use. At this point, the existence of a Total Avoidance Alternative must be assessed. If there is no Feasible and Prudent Total Avoidance Alternative, the Section 4(f) Alternatives Analysis as described in *Sections VI, VII and VIII* will need to be performed.

2. CONSTRUCTIVE USE

Even activities which do not require an actual physical incorporation of property from Section 4(f) resources are governed by Section 4(f) if the activities create sufficiently serious impacts that would substantially impair the value of the site in terms of its prior significance and enjoyment. According to FHWA's regulations, substantial impairment occurs only when the protected activities, features, or attributes of the resource are substantially diminished. The degree of impairment should be determined in consultation with the officials having

GENERAL SCOPE

All design work shall be performed in accordance with the latest information and/or procedures described in PennDOT's Design Manuals and Circular Letters.

Develop memos of all meetings and/or appropriate telephone conversations and provide the District with one copy of the same to each Department attendee.

Any design restrictions imposed by the Consultant on their design efforts shall be shown up front in Technical Proposal, if none, so state.

Subconsultants' names and work shall be shown up front in Technical Proposal and Price Proposal and cross referenced to District's Scope of Work.

All work activities in Consultant proposal to be cross referenced to District's Scope of Work by page and paragraph number.

With the exception of Department's forms, plan sheets and cross section sheets, the Consultant should not anticipate the Department providing any materials, design data or design services such as laboratory testing, computer programming, etc. other than what has been specifically mentioned in this scope of work.

This scope of work reflects major activities involved and is not intended to be in all inclusive detailed description of work involved.

Oral presentations will be required on June 1, 1988. Presentations will be made in Conference Room "A", and should be made by the same personnel that will make the presentations at public meetings.

Presentations will be limited to 45 minutes in length and will be in accordance with the following schedule:

Boswell, Yule Jordan Engineering	-	8:30 AM
Johnson, Mirmiran, and Thompson	-	10:30 AM
Gwin Engineers	-	1:30 PM